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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/676,805	09/29/2000	Joseph R. Stonoha	193957/000020	2958
29540	7590	10/16/2008		
DAY PITNEY LLP 7 TIMES SQUARE NEW YORK, NY 10036-7311			EXAMINER BORISSOV, IGOR N	
			ART UNIT 3628	PAPER NUMBER
			MAIL DATE 10/16/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 09/676,805	Applicant(s) STONOKA ET AL.	
	Examiner Igor N. Borissov	Art Unit 3628	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 June 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) See Continuation Sheet is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,5-7,10,14,15,19,23,24,28-31,33-35,37-42,44-46,48-53,55-57,59,60 and 76-84 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Continuation of Disposition of Claims: Claims pending in the application are 1,5-7,10,14,15,19,23,24,28-31,33-35,37-42,44-46,48-53,55-57,59,60 and 76-84.

DETAILED ACTION

Response to Amendment

Amendment received on 06/30/2008 is acknowledged and entered. Claims 2-4, 8, 9, 11-13, 16-18, 20-22, 25-27, 32, 36, 43, 47, 54, 58 and 61-75 have been previously canceled. Claims 82-84 have been amended. Claims 1, 5-7, 10, 14, 15, 19, 23-24, 28-31, 33-35, 37-42, 44-46, 48-53, 55-57, 59, 60, 76-84 are currently pending in the application.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 82-84 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ogura et al. (US. US 5,448,685).

Claims 82-84. Ogura et al. (hereinafter Ogura) teaches a method, system and computer-readable medium having instructions for causing a computer to execute said method for forming plural labels in response to entries from an input device, said method comprising:

presenting a user with an option for selecting a current job for printing a plurality of labels, wherein each of said plural labels can include content (Figs. 8B – 37), comprising:

a numerical identifier indicative of a common sequential series with each other of said plural labels; and positional attributes, character attributes that are identical with each other label in the first job (Figs. 8A, 8B, #14 and #16; C. 9, L. 33-60);

or,

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said content of said each of said plural labels can comprise:

a numerical identifier indicative of a numerical series that differs from each other of said plural labels; and positional attributes and character attributes that differ from each other of said plural labels in said second job (Figs. 8A, 8B, #14 and #16; C. 9, L. 33-60);

said method further comprising

receiving a selection (an input) from the user regarding the current job; and

presenting one or more display screens for a user to input positional attributes, character attributes and numerical identifiers for the sequential range of labels printed in the job (C. 9, L. 33-60); or

presenting one or more display screens for the user to input unique positional attributes, unique character attributes and a unique numerical identifier for each individual label in the job (C. 9, L. 33-60); and

simultaneously printing each of said plural labels for said selected job (C. 1, L. 67-68; C. 2, L. 8-10).

Ogura does not specifically teach that said presenting a user with an option for selecting said current job comprises selecting that the current job is one of a first job and a second job.

However, Ogura does teach providing a graphical user interface for inputting positional attributes, character attributes and numerical identifiers, wherein said labels can be designated (selected) to be printed as “continuation” print job (indicates the “common sequential series” feature), or “new formation” print job (indicates the “unique positional” or “individual” feature) (C. 25, L. 34-55). Furthermore, Specification does not indicate any advantages of using said (or any other specific) designation of possible print jobs.

Therefore, without providing such indication, it would be an obvious matter of business choice to present/designate available printing functionalities in any suitable for the business fashion.

Claims 1, 5-7, 10, 14, 15, 19, 23, 24, 28-31, 33-35, 37, 39-42, 44-46, 48, 50-53, 55-57, 59 and 76-81 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ogura et al. in view of Best et al. (US 5,533,176).

Claims 1, 5-7, 10, 14, 15, 19, 23, 24, 28-31, 33-35, 37, 39-42, 44-46, 48, 50-53, 55-57, 59 and 76-81. Ogura teaches all the limitations of claims 1, 5-7, 10, 14, 15, 19, 23, 24, 28-31, 33-35, 37, 39-42, 44-46, 48, 50-53, 55-57, 59 and 76-81, including that the text and graphics to appear on a label is automatically scaled to fit the printable area of a designated label, except specifically teaching that the "positional palette" or the size, rotation and appearance of any text and graphic that is to appear at each of the specific printable locations on the label may be designated by the user.

Best et al. (hereinafter Best) teaches a computer-implemented method, system and computer-readable medium having instructions for performing said method, for forming labels with a computer in response to entries from an input device, comprises generating and printing various labels that contain both text and graphics, wherein the control processor of the label generating and printing machine, while executing the operating program, that is stored in the memory, permits the user to design one or more labels by designating at each printable location on a label the "positional palette" or the size, rotation and appearance of any text or graphic that is to appear at each of the specific printable locations on the label. After the user has finished designing labels, the user may make further selection of the labels that will be printed as a print job on the printer that is associated with the label generation machine or method (Fig. 1; C. 4, L. 41 – C. 8, L. 20).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Ogura to include that the "positional palette" or the size, rotation and appearance of any text and graphic that is to appear at each of the specific printable locations on the label may be designated by the user, as disclosed in Best, because it would advantageously enhance the functionality of the system, thereby make it more attractive to the customers.

As per claims 30, 31, 41, 42, 52 and 53, it would have been obvious to one having ordinary skill in the art at the time the invention was made to recognize that the character to be printed could be a "prefix" or "suffix" relative to any of the other characters to be printed on a label, because the meaning of the words "prefix" and "suffix" would be understood by one of ordinary skill.

Claims 38, 49 and 60 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ogura et al. in view of Best et al. further in view of Drisko (US 4,718,784) and further in view of Benada et al. (US 5,621,864).

Claims 38, 49 and 60. Ogura in view of Best teach all the limitations of claims 38, 49 and 60, including designating by the user a sequence of numbers to be placed on a label, except specifically teaching saving data for said ordered numerical sequence and plurality of labels so that another plurality of labels can continue in said ordered numerical sequence with a first label thereof having the next number of said ordered numerical sequence that succeeds the last number used by the step of assigning an ordered numerical sequence.

Drisko teaches a computer-implemented method and system, which under the control of an operating program stored in a memory, performing the functions of permitting an user to design one or more labels and then designate which of the designed labels are to be printed as a single print job on an supply of labels stock containing label that are arranged in one or rows and columns, wherein said system includes a control processor, memory, display, input device and printer and configured to permit the user to enter information that would:

for each label to be designed to define/designate for each printable character position/location on each label being designed the one or more alphanumeric characters, for example, text and serial numbers, or graphics, for example, a barcode, that is to appear on the label at each of the printable position/location on the label;

for each printable character position/location on each label being designed to designate a customized pallet that would designate the font size to be used, and

whether the character is to appear using bold print for each printable character position/location, where the pallet;

for each designed label by the user, to designate the quantity of labels to be printed in a print queue/job as well as the order/sequence in which the designated labels are to be printed in the print queue/job; and

permit the user to place a label serial number on a label;

based on the entered information, displaying for preview on a display the designed label including the relative positions of the alphanumeric/graphical content of the label;

wherein when the print queue/job is to be printed as indicated by an entry from the user, the designated labels would be printed beginning on a designated label, for example the first available label, on the label stock, and then serially on each available label in the rows/columns of labels on the label stock; and

wherein once the user has designated the appearance of a character/graphic, said designated appearance would be used for each sequential printable location on the label until a new appearance of a character/graphic was designated (Figs. 1-8b).

However, Drisko does not specifically teach saving the last serial number used so that the next label to be designed that includes a label serial number would use the next available succeeding serial number.

Benada et al. (hereinafter Benada) teaches a computer-implemented method, system and computer-readable medium having instructions for performing said method, for forming labels with a computer in response to entries from an input device, comprising keeping track of the last unique indicia in the sequence of unique indicium that has been used so that no two labels would be potentially confused with one another, since both labels would have the same unique identifier.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Drisko to include keeping track of the last unique indicia in the sequence of unique indicium that has been used so that no two labels would be potentially confused with one another, since both labels would have the same unique identifier, as disclosed in Benada, because it would advantageously allow to avoid

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confusion caused by having two labels with the same serial number confused as the same label.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Ogura and Best to include the ability to place unique serial numbers on labels and to remember the last serial number used as taught by Drisko in view of Benada, because it would advantageously allow to avoid confusion caused by having two labels with the same serial number confused as the same label.

Response to Arguments

Applicant's arguments filed 06/30/2008 have been fully considered but they are not persuasive.

Applicant argues that Ogura fails to disclose a single system via which a user can select to print plural labels, where the labels can either be in a consecutive series, with identical positional and character attributes (the "first job" mode) or be entirely different from one another in both numerical series, positional attributes and character attributes (the "second job" mode).

In response to this argument it is noted that Ogura teaches presenting a user with an option for selecting a current job for printing a plurality of labels, wherein each of said plural labels can include content which can be characterized as common sequential series content or numerical series content, wherein the user can input a numerical identifier indicative of a common sequential series with each other of said plural labels; and positional attributes, character attributes that are identical with each other label in the first job (Figs. 8A, 8B, #14 and #16; C. 9, L. 33-60); or a numerical identifier indicative of a numerical series that differs from each other of said plural labels; and positional attributes and character attributes that that differ from each other of said plural labels in said second job (Figs. 8A, 8B, #14 and #16; C. 9, L. 33-60). Furthermore, Ogura specifically teach that said plurality of labels with different attributes can be printed by one command, or "simultaneously" (C. 1, L. 67-68; C. 2, L. 8-10).

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Igor Borissov whose telephone number is 571-272-6801. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John W. Hayes can be reached on 571-272-6708. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Igor N. Borissov/

Primary Examiner, Art Unit 3628

10/13/2008